

TIPS TO HELP YOU APPEAL AN EXPERIMENTAL OR INVESTIGATIONAL SERVICES DENIAL BY YOUR MCHIP

Managed Care Health Insurance Plans (MCHIPs) have established criteria to determine whether a treatment, procedure or drug is considered *Experimental or Investigational*, and therefore not covered. The criteria, along with a definition of the terms *Experimental or Investigational*, are usually included in your coverage documents issued by your MCHIP. These criteria vary from one MCHIP to another, which explains why one MCHIP may approve something a different MCHIP denies.

Criteria your MCHIP might use to determine if a treatment, procedure or drug is Experimental or Investigational

- ✓ For drugs or medical supplies, the drug or supply must have received approval from the United States Food and Drug Administration (USFDA) for your specific medical condition. If the drug has received USFDA approval for at least one indication, but not your particular indication ("off-label" use), and you or your doctor can show that either the drug is recognized for treatment of your condition in standard drug reference publications or other substantially accepted peer-reviewed medical literature, your MCHIP should cover it unless your contract otherwise excludes it. For more complete information on the prohibition of denying certain prescription medications, see [§38.2-3407.5](#) of the Code of Virginia.
- ✓ Information available in peer-reviewed medical literature must be sufficient to prove its safety and efficacy.
- ✓ Research must show that the treatment, procedure or drug is as safe and effective as currently covered options and recognized treatments, procedures or drugs.
- ✓ The treatment, procedure or drug must not be in the testing stage.
- ✓ It must be recognized as generally acceptable medical practice and the standard of care.

How to Appeal

If your MCHIP issues a denial on the basis that a treatment, procedure or drug is *Experimental or Investigational*, you may appeal. The above list is a general guideline. Check your coverage documents to determine whether they include the criteria your MCHIP uses to determine whether a treatment, procedure or drug will be considered *Experimental or Investigational*. If no criteria or definitions are set out in your coverage documents, you can ask your MCHIP for the criteria. Your appeal should specifically address the manner in which you or your physician think the requested treatment, procedure or drug should not be considered *Experimental or Investigational*. Your appeal will be stronger with the inclusion of any literature or other information showing that your request meets a criterion referenced either above or in your coverage documents. A source of information might be the drug manufacturer's web site. It is also helpful if you can show that the treatment, procedure or drug is currently covered by Medicare, Medicaid, or used in teaching hospitals. Your appeal is usually sent out for review by a physician consultant who is not employed by the entity responsible for making the previous adverse decision. You have the option of requesting an expedited review by your MCHIP. In this instance, however, an independent physician consultant might not review your appeal.

The fact that you or your physician view the requested treatment, procedure or drug as medically necessary does not indicate that it must be covered by your MCHIP. In order to be covered, you will need to show that the treatment, procedure or drug considered by your MCHIP to be *Experimental or Investigational* is eligible for coverage based on the terms of your contract.

The Option of Independent External Appeal

If, however, your appeal is not successful and you receive a final adverse decision from your MCHIP on the basis that the requested treatment, procedure or drug is *Experimental or Investigational*, you may be eligible to request an independent external appeal administered by the Virginia State Corporation Commission's Bureau of Insurance. A final adverse decision citing a determination that a procedure is *Experimental or Investigational*, is eligible for the independent external appeal administered by the Bureau of Insurance provided that other eligibility criteria are met. To be eligible to request the independent external appeal, you must meet the following additional criteria:

- ▶ Your MCHIP coverage must be issued in Virginia either as individual coverage or to a fully-insured group. Your coverage does not qualify if it was issued outside of Virginia, or if it is self-insured.
- ▶ The actual cost to you must exceed \$300 if the final adverse decision is not reversed.
- ▶ You must have either (i) completed your MCHIP's internal appeal process, (ii) received an adverse determination on an expedited appeal, or (iii) received a declination from the MCHIP to review your appeal as expedited, when your treating health care provider requested it.

Along with your MCHIP's final adverse decision letter, your MCHIP should include the application form you will need for filing an external review if you are eligible. The MCHIP should explain in their final adverse decision letter that the application for independent external review must be submitted to the Bureau of Insurance within 30 days of the final adverse decision by the MCHIP. In addition, there is a \$50 refundable filing fee that can be waived if it can be shown that the fee will cause undue financial hardship for the covered person.

Contacting the OFFICE OF THE MANAGED CARE OMBUDSMAN

If you would like assistance during the appeal process or if you have questions, please contact us at:

ADDRESS:

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Commission's
web page at:
<http://www.state.va.us/scc>*